

#12

PATENT

Customer No. 22,852

Attorney Docket No. 5552.0265-04000

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Heinz-Jürgen FRIESEN et al.

Application No.: 09/820,974

Filed: March 30, 2001

For: SHEET-LIKE DIAGNOSTIC  
DEVICE

Group Art Unit: 1641

Examiner: Christopher L. CHIN

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. § 1.175(b)

On behalf of Dade Behring Marburg GmbH, formerly Behringwerke Aktiengesellschaft, the assignee of the entire interest in U.S. Patent No. 4,861,711, (the '711 patent), we hereby declare that:

1. We executed an Original Reissue Declaration on May 7, 1996, for the parent Reissue Application No. 08/544,679, which was filed in this reissue application on March 30, 2001. In that declaration, we declared that "the '711 patent may be partly inoperative or invalid by claiming more than the patentee had a right to claim. Any error that may have occurred in claiming more than the patentee was entitled to arose without any deceptive intent on the part of the inventors or Behringwerke." See Original Declaration ¶ 6. We then recited information regarding Interference No. 103,072 as the basis for the claim amendments and the cancellation of claims 2-17 and 19-34 in the parent reissue application. See *id.* at ¶¶ 6, 7, 15, and 16.

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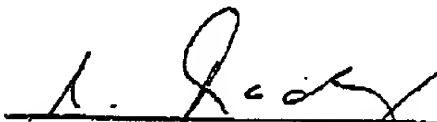
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2. We declare in this Supplemental Declaration that at least one error being relied upon as the basis for reissue under 37 C.F.R. 1.175(a)(1) was that the '711 patent is partly inoperative or invalid based on the findings of the Administrative Patent Judge in Interference No. 103,072, as claiming more than the patentee was entitled to claim.


3. We believe that every error in the '711 patent being corrected in the present reissue application, including any error not covered by the original reissue declaration submitted in this reissue application, arose without deceptive intent on the part of the inventors or the assignee, Dade Behring Marburg GmbH.

4. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the reissue application or any patent issued thereon.

Respectfully submitted,

  
Name: Dr. Norbert Madry  
Position: Managing Director

Dated: June 16, 2003

  
Name: Dr. Bernhard Auerbach  
Position: Director Patents and Licenses

Dated: June 16, 2003

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Sir:

CONSENT OF ASSIGNEE

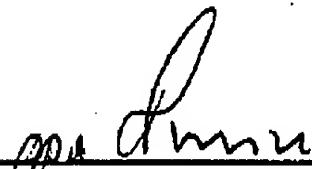
Dade Behring Marburg GmbH is the sole Assignee of United States Patent No. 4,861,711, granted August 29, 1989, by a name change from Behring Diagnostics GmbH to Dade Behring Marburg GmbH recorded in the U.S. Patent and Trademark Office on February 17, 1998 at Reel 009197, Frame 0667. Behring Diagnostics GmbH was the sole assignee of the patent by an assignment executed by Behringwerke Aktiengesellschaft recorded in the U.S. Patent and Trademark Office on July 31, 1997 at Reel 008842, Frame 0428. Behringwerke Aktiengesellschaft was the sole assignee of the patent by an assignment executed by inventors Heinz-Jürgen Friesen, Gerd Grenner, Hans-Erwin Pauly, Helmut Kohl, Klaus Habenstein, and Joseph Stärk and recorded in the U.S. Patent and Trademark Office on December 13, 1985 at Reel 004496, Frame 0648. Dade Behring Marburg GmbH hereby assents to the reissue of

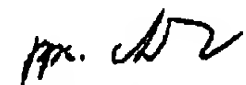
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United States patent No. 4,861,711. The evidentiary documents have been reviewed and to the best of Assignee's knowledge and belief, title to the above-identified application is in Assignee.

We hereby declare that we are authorized to execute this document on behalf of Dade Behring Marburg GmbH, that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

  
Name: H.-J. Heuser  
Position: Vice President  
Global Marketing  
Hemostasis & IDD  
Dated: June 17, 2003

  
Name: Dr. Bernhard Auerbach  
Position: Director Patents and Licenses  
Dated: June 17, 2003

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